

HEALTH DEPARTMENTS

The 30th March, 1976

No. 1827-3HBII-76/10877.—In exercise of the powers conferred by section 21 of the Drugs and Cometic Act, 1940 (Control Act XXI A of 1940) the Governor of Haryana is pleased to appoint the following persons Inspectors for the purpose of chapter IV of the said act within the whole state of Harynna with-effect from the date mentioned against their names upto 28th January, 1977.

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|------------------------|--------------------|
| 1. Shri Kailash Kumar | 21st January, 1976 |
| 2. Shri Lal Chand | 20th January, 1976 |
| 3. Shri Rajinder Kumar | 2nd February, 1976 |

(Sd.) . . .

The 4th March, 1976

No. 2946-3HBI-76/10998.—The Governor of Haryana is pleased to reconstitute the Stats Family Planning Committee with the following officials and non-officials as its members:—

Official Members

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| 1. Health Minister, Haryana | .. | Chairman |
| 2. State Minister for Health, Haryana | .. | Vice-Chairman |
| 3. Commissioner and Secretary to Government, Haryana, Health Department | .. | Member |
| 4. Director, Health Services, Haryana | .. | Do |
| 5. Regional Director, Family Planning Government of India, Ministry of Health F. P. U. D. & W. H. | .. | Do |
| 6. Director, Public Instruction, Haryana | .. | Do |
| 7. Director, Public Relations, Haryana | .. | Do |
| 8. Principal, Family Planning Training and Research Centre, Rohtak | .. | Do |
| 9. Director of Panchayats, Haryana | | |
| 10. Director, Social Welfare, Haryana | .. | Do |
| 11. Labour Commissioner, Haryana | .. | Do |
| 12. Deputy Director, Family Planning Haryana (now Joint Director, Family Planning) | | Member-Secy |
| 13. Chief Medical Officer, Sonapat | .. | Member |
| 14. Chief Medical Officer, Narnaul | | Do |
| 15. District Family Planning Officer, Ambala | .. | Do |
| 16. District Family Planning Officer, Ambala | .. | Do |
| 17. Lady Doctor Usha Verma, Prof. of Gynaecology, Medical College, Rohtak. | .. | Do |

Non-Official Members

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|--------------------------------------|----|--------|
| 1. Shri Tayyab Hussain, M. P, | .. | Member |
| 2. Shri Partap Singh Tyagi, M. L. A. | .. | Do |

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| 3. Shri G. C. Joshi, M. L. A. | .. | Member |
| 4. Shri Bhupinder Singh, Chairman, Haryana Chamber of Commerce & Industries, Yamuna Nagar | .. | Do |
| 5. Chairman, Faridabad Industries, Association, Faridabad | .. | Do |
| 6. A representative of Haryana Branch of Indian Medical Association. | .. | Do |
| 7. Shri K. N. Gulati, M. L. A., Faridabad. | .. | Do |

2. The term of the Committee will be for two years in the first instance but the State Government may in their discretion reconstitute it even before the expiry of this term.

3. The State Family Planning Committee will advise the State Government on the following matters:—

- (i) Research and studies on inter-relationship between economic, social and population change or reproduction pattern attitude and motivation affecting the size of family;
- (ii) Educating public opinion on matters of Family Planning;
- (iii) Advise and necessary service in Family Planning as an integral part of the public health activities in referral Hospitals, Health Centres and Clinics;
- (iv) Facilities for the Training of personnel in Family Planning;
- (v) Formation of Schemes for improvement of health of mothers and Children and for bringing about better conditions of family living; and
- (vi) Literature and periodicals in furtherance of the objectives of the Schemes.

4. The headquarter of the Committee will be at Chandigarh.

5. The non-official members will draw T. A. according to clause (c) of para 3 of Haryana Government letter No. 18-PPA (5)-66/570, dated 23rd November, 1966. The official members will be entitled to T. A./D. A. as admissible under normal rules.

6. The State Family Planning Officer will be the Controlling Officer authorised to counter-sign the T. A. Bills of the non-official members (including Legislators). The other conditions regarding regulating T.A. etc. to the members of the Committee will be governed by the conditions incorporated in the letter No. 18-PPA(5)-66/570, dated 23rd November, 1966.

7. The expenditure involved in this connection will be debited to the head "281—Family Planning-Contingencies" (Plan).

8. This issues with the concurrence of the Finance Department received,—*vide* their U.O. No. 1185-4FDII-76 dated 10th March, 1976.

M. SETH,

Commissioner and Secretary to Government, Haryana,
Health Department.

LABOUR DEPARTMENT

The 15th March, 1976

No. 2520-4I ab-76/8438.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Panipat Cooperative Sugar Mills, Panipat.

BEFORE SHRI MOHAN LAL JAIN PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 31 of 1975

between

SHRI JAGMOHAN LAL WORKMAN AND THE MANAGEMENT OF M/S PANIPAT CO-
OPERATIVE SUGAR MILLS, PANIPAT

AWARD

By Order No. 1D/KNL/13-J-74/7262, dated 28th January, 1975 the Governor of Haryana, referred the following dispute between the management of M/s Panipat Cooperative Sugar Mills, Panipat and its workman Shri Jagmohan Lal to this Tribunal, in exercise of the powers conferred by clause (d) of subsection (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the retrenchment of services of Shri Jagmohan Lal is justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this Tribunal in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged vide statement of his claim filed by him, that he having been appointed in the Accounts Office of the management as a permanent employee on 3rd August, 1963, his services had been illegally retrenched by the management on 9th April, 1971, in a mala fide manner. He stated that the management retained his juniors in service while retrenching his service ostensibly to effect economy.

The management pleaded that the statement of claim filed by the workman was beyond the scope of the demand dated 16th July, 1971 initially raised by him on them. They denied the allegation of the workman that his juniors were retained in service at the time of retrenching his service. They stated that the retrenchment of service of the workman was legal and proper in all respect, inasmuch as retrenchment compensation and one month's notice pay were duly offered to him at the time of his retrenchment and that although he declined to receive the same at that time, he accepted payment subsequently. They while pointing the reference earlier made by the Governor to the Labour Court in respect of the legality of the retrenchment of the workman, stressed that the later confined his case in the earlier reference, exclusively to the allegations relating to the retention by the management of his juniors and that he was not now entitled to take a fresh plea that his retrenchment was in violation of the provisions of law. They resisted the claim of the workman on the additional ground that the second reference made by the Governor to this Tribunal was bad in law.

The workman filed a rejoinder while denying the plea of the management of offer by them to him of the retrenchment compensation and notice pay at the time of his retrenchment and his refusal to accept payment of the same. He stated that his retrenchment was illegal on the ground of failure of the management to offer him the dues at the time of his retrenchment as also on their retaining junior hands in preference to him. He controverted the plea of the management that the allegations made by him were in any way beyond the scope of the demand raised by him on them.

The following issues were thus framed on the pleas of the parties.

- (1) Whether the reference of the dispute in the present form is bad in law as per reason given in the preliminary objection in the written statement?
- (2) Whether the retrenchment of service of Shri Jagmohan Lal is proper, justified and legal? If not to what relief is he entitled?
- (3) Whether the statement of claim filed by the workman is at variance with the demand notice leading to the reference? If not, with what effect?

The admitted facts of the case are that the Governor of Haryana referred the dispute covered by issue No. 2 to the Labour Court vide his order dated 5th November, 1971. This reference was registered as No. 187 of 1971 in the Labour Court and arose out of the demand dated 16th July, 1971 raised by the workman on the management also forming the basis of this reference under adjudication. The workman did not file any statement of his claim and as a result of the written statement filed by the management and the rejoinder filed by the workman in the earlier reference before the Labour Court, the following issue besides an issue in terms of the dispute referred, was framed.

"Whether the reference is barred under section 55 of the Punjab Cooperative Societies Act?"

The parties led evidence on the issue framed. The workman filed rejoinder in writing dated 10th February, 1972 before the Labour Court stating that the pleas of the management were incorrect and that his only claim was that he was a senior person and the juniors had been retained. Shri O.P. Sharma, the then Presiding Officer of the Labour Court vide his Award dated 30th Juny, 1974 without going into the merits of the case and deciding the issue arising from the pleas of the parties held that the reference made to the Labour Court in respect of the legality of the retrenchment of the workman by the management having on their strength workman not less than 1000 in number was bad in law and that it should have been made to the Industrial Tribunal under section 7-A of the Industrial Disputes Act hereinafter referred to as the Act read with the third schedule appended to it. This order being not assailed by either party became final. The workman, however, got the reference made to the Industrial Tribunal in respect of the same dispute now under adjudication of this Tribunal.

Shri R. L. Gupta authorised representative for the management could not however substantiate the plea that the reference made to the Industrial Tribunal by the Government was bad in law. The matter relating to the retrenchment of the workman squarely falls under item 10 of the 3rd schedule and can be gone into and adjudicated by an Industrial Tribunal appointed under section 7-A of the Act and not by a Labour Court. I thus hold that this reference made to the Industrial Tribunal is legal and valid in all respect. I decide this issue against the management.

Issue No. 3.

I propose to take up this issue first in view of the plea of the management, that the workman could not legally take up a stand in respect of the illegality of the retrenchment on the ground of failure of the management to offer him retrenchment compensation and one month's notice pay at the time of his retrenchment under section 25-F of the Act.

I have carefully read the notice of demands dated 16th July, 1971 leading to this reference as also reference No. 187 of 1971 made to the Labour Court. The workman is found to have expressly stated in this notice that his services had been terminated vide order dated 3rd April, 1971 without any reason and without following any law and that the management had retained junior hands in service at the time of terminating his services and that the act was illegal and unjustified and that he should be reinstated. I am under the circumstances at a loss to understand as to how the statement of claim filed by him on the same ground is beyond the scope of notice of demands referred to above. The copy of the conciliation proceedings Exhibit M-2, rejoinder of the workman filed before the Labour Court Exhibit M-3 and the representation of the workman made on 16th January, 1971 Exhibit M-4 relied on by the management are relevant for deciding this issue. I accordingly hold against the management on this issue and decide it accordingly.

Issue No. 2.

This is the most important issue in the case. Shri R.L. Gupta authorised representative for the management perhaps feeling the weakness of his case took me through the record of reference No. 187 of 1971 made to the Labour Court and vehemently contended that in view of the specific statement of the workman in the rejoinder Exhibit M-3 that his only claim was that he was a senior person and his juniors had been retained and want of plea on his behalf during the whole trial of the failure of the management to offer him the retrenchment compensation, he shall be deemed to have been given up the plea of want of compliance by the management of the provisions of section 25-F of the Act and that the case now put forth by him in this reference in this connection could not be considered. This argument has obviously in my opinion no force inasmuch as the reference made to the Industrial Tribunal is fresh and entitled the parties concerned to take all possible pleas available to them. The pleas taken by them earlier in reference made to the Labour Court can not legally limit the scope of the pleas available to them in this reference now under adjudication and no authority could be referred to me by the management in support of this contention. Even though on a question of fact. I feel inclined to agree with Shri R.L. Gupta that the workman did not specifically take the plea of the failure of the management to comply with the provision of section 25-F of the Act in the earlier reference and did not adduce any evidence in this direction, yet he is not debarred from taking this plea in the reference in hand.

Coming to the decision of the question of facts the retrenchment of the workman was admittedly made on the ground of effecting economy. It is conceded by the management that in case persons juniors to the workman concerned were retained in preference to him at the time of retrenchment, his retrenchment should be held as legal. The only question for determination under the circumstances would be as to whether Shri Jagmohan Lal workman was one of the Junior most liable to be retrenched. The parties in this connection relied on the evidence led by them in reference No. 187 of 1981. Shri N.L. Batra, Office Superintendent of the Sugar Mills admitted vide his statement dated 10th April, 1972 that he could not tell the date, month or year of inclusion of the clerks shown senior to Shri Jagmohan Lal in grade III. Having regard to the statement of the workman himself, that persons shown senior to him in grade III vide list Exhibit M.W. 1/4 had been brought in this grade subsequent to his appointment and that the seniority list Exhibit M.W. 1/4 was prepared solely on the basis of the date of appointment irrespective of the date of joining grade III it had to be conceded by the management during arguments that the date of joining the service of the management was adopted as the sole criteria for determining the seniority. This had further to be conceded by the management that some persons shown as senior to Shri Jagmohan Lal in the seniority list Exhibit M.W. 1/4 had been brought in grade III subsequent to the date of recruitment of Shri Jagmohan

Lal in this grade. The seniority list Exhibit M.W. 1/4 relied on by the management is obviously incorrect, leading to a conclusion that the seniority of Shri Jagmohan Lal has not properly been shown and the persons junior to him in grade III had been retained in preference to him. I hold accordingly.

Taking up now the only other question relating to the compliance by the management of the provision of section 25-F of the Act, the later did not adduce any evidence during this reference. As a result of their repeated failure to avail of the opportunity granted to them for adducing evidence, their case was closed vide my order dated 13th October, 1975 for the reasons detailed therein. As against this, the workman came in the witness box and deposed that he was neither paid the retrenchment compensation nor other dues payable to him till the date of his retrenchment nor did he received any money through money order. It would however appear to be quite interesting that without adducing any evidence at the proper stage the management confronted him with an voucher Exhibit M-7 with a suggestion that the amount stated therein was tendered to him in token of retrenchment compensation along with letter Exhibit M-6. The workman stoutly denied this suggestion and in absence of proof of such a suggestion, and any other evidence in this connection, the management failed to establish compliance with the provision of section 25-F of the Act providing for payment of retrenchment compensation and one month's notice pay as an essential pre-requisite for a legal retrenchment and endorsement made in urdu script on Exhibit M-7 of certain official that the workman declined to accept the sum of Rs. 1276-74 remained unproved, so much so the date written under this endorsement appears to be tampered with an overwriting to a naked eye. Considered from any angle the document Exhibit M-7 brought at a belated stage by the management does not appear to be genuine and consequently does not establish the offer of retrenchment compensation and notice pay to the workman at the proper stage. I thus hold that the management had failed to establish compliance with the provision of section 25-F of the Act, a necessary condition for a legal retrenchment.

The result is that the retrenchment of the workman is proved to be illegal on both the grounds. In other words the management failed to establish firstly the compliance with the provision of section 25-F of the Act and secondly that Shri Jagmohan Lal was one of the junior most person actually retrenched. It on the other hand stands established for the workman that persons junior to him were retained in preference to him by the management at the time of his retrenchment. I accordingly decide this issue against the management.

The result is that the workman is entitled to be reinstated with effect from 3rd April, 1974 the date of his retrenchment with continuity of his service and all back wages. I therefore answer the reference while returning the award in terms of my findings made above.

Dated the 19th February, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 293, dated 23rd February, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 23rd February, 1976.

MOHAN LAL JAIN,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

P. P. CAPRIHAN, Commissioner & Secy.

INDUSTRIAL TRAINING DEPARTMENT

The 1st April, 1976

No. 327-41B(I)-76/11651.—The Governor of Haryana is pleased to notify the appointment of Shri Dai Ghand as Vice Principal, at the Industrial Training Institute, Ambala City in the scale of Rs 300-25-450 25-600 (Class II) with effect from 1st January, 1976, forenoon.

M. C. GUPTA, Commissioner & Secy.

EXCISE AND TAXATION DEPARTMENT

The 31st March, 1976

No. 1362-FT-1-76/9525.—Shri T. N. Kapoor, Excise and Taxation Officer, retired from Government service on 31st March, 1976 (afternoon).

M. S. RATHEE, Dy. Secy.